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Attorneys for Creditors  
DAVID AND SHARLENE FURUTO

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF HAWAII

In re	)	CASE NO. 09-01737
SOSIPETA HIKILA,	)	(Chapter 7)
Debtor.	)	
<hr/>		
DAVID AND SHARLENE FURUTO,	)	ADV. PROC. NO. _____
Plaintiffs	)	COMPLAINT TO DETERMINE
v.	)	DISCHARGEABILITY OF DEBT
SOSIPETA HIKILA,	)	UNDER § 523(A)(6); EXHIBITS "A"
Defendant	)	- "B"
	)	

**COMPLAINT TO DETERMINE DISCHARGEABILITY  
OF DEBT UNDER § 523(A)(6)**

PLAINTIFFS DAVID AND SHARLENE FURUTO (“Plaintiffs”), by and through their attorneys undersigned, for a complaint against SOSIPETA HIKILA, the Debtor in this case (“Defendant”), state and allege as follows:

1. This Court has jurisdiction over this adversary proceeding pursuant to 28 U.S.C. § 151, 28 U.S.C. § 157, and 28 U.S.C. § 1334(b). The proceeding is brought pursuant to 11 U.S.C. § 523, and Rules 4004(d) and 7001 of the Federal Rules of Bankruptcy Procedure.
2. This bankruptcy case was commenced through a voluntary petition filed by Defendant on July 31, 2009.
3. Plaintiffs are creditors of Defendant.
4. This is a “core” proceeding under 28 U.S.C. § 157(b)(2)(I).
5. Plaintiffs rented to Defendant that certain real property located at 55-550 Moana Street, Laie, Hawaii 96762 (the “Property”) commencing on September 1, 1985.
6. On December 22, 2006, Plaintiffs filed a Complaint (Assumpsit, Summary Possession/Landlord-Tenant, Damages) against Defendant in the State of Hawaii District Court of the First Circuit, Ko‘olauloa Division relating to Defendant’s tenancy on the Property.

7. A true and correct certified copy of the Complaint is attached as Exhibit "A."

8. On February 2, 2007, a Writ of Possession and a Judgment for Possession were issued in Plaintiffs' favor against Defendant.

9. Defendant caused extensive damage to Plaintiffs' Property.

10. Defendant intended to inflict injury upon Plaintiffs' Property.

11. Defendant believed that it was substantially certain that injury to Plaintiffs' Property would occur as a result of Defendant's conduct.

12. Defendant's conduct was both willful and malicious.

13. As a result of the damage to Plaintiffs' Property, on May 1, 2007, a Judgment in favor of Plaintiffs and against Defendant was issued in the amount of \$73,816.31.

14. A true and correct certified copy of the Judgment is attached as Exhibit "B."

15. The damage caused to Plaintiffs' Property is a debt that is excepted from discharge because it was caused by Defendant's willful and malicious conduct.

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WHEREFORE, the Plaintiffs pray that the debt owed by Defendant to Plaintiffs be determined to be an exception to discharge and that Plaintiff have such other and further relief, including the award of reasonable attorneys' fees, as is just.

DATED: Honolulu, Hawaii; October 22, 2009.



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CUYLER SHAW  
MIRANDA TSAI  
Attorneys for Creditors  
DAVID AND SHARLENE FURUTO

**COMPLAINT (ASSUMPSIT, SUMMA POSSESSION/  
LANDLORD-TENANT, DAMAGES);  
DECLARATION; EXHIBIT(S); SUMMONS**

TWO-SIDED FORM

Form #1DC08

**IN THE DISTRICT COURT OF THE FIRST CIRCUIT  
KO'OLAULOA DIVISION  
STATE OF HAWAI'I**

**Plaintiff(s)**

David M. Furuto

**Defendant(s)**

Sosipeta (Siosipeta) Hikila

**Street Address, City, State ("the property"):**

55-550 Moana Street  
Laie, Hawaii 96762

**FILED**  
**DISTRICT COURT OF  
THE FIRST CIRCUIT**

2006 DEC 22 P 2:52

Reserved for Court Use

CLERK S. KAI-FISHER

**1RC06 1 07025**

**Plaintiff(s)/Plaintiff(s)' Attorney (Name, Attorney Number, Firm Name (if applicable), Address, Telephone and Facsimile Numbers)**

David M. Furuto,  
P. O. Box 84  
Laie, Hawaii 96762  
Telephone: 808-293-7788  
Telephone: 808-293-3814

**COMPLAINT**

1. This Court has jurisdiction over this matter and venue is proper.
2. Plaintiff(s) is the landlord or the agent for the landlord of the property.
3. The property is located in this division of this Court.
4. Defendant(s) rents and/or is in possession of the property and/or is a personal guarantor under the rental agreement of the property.
5.  There is a written rental agreement for the property. A copy of the written rental agreement for the property (and any amendments to the rental agreement) is attached as Exhibit 1.
6.  There is no written rental agreement for the property, only an oral agreement.
7.  There is an expired written rental agreement for the property. An accurate copy of the written rental agreement is attached as Exhibit 1.
8. Defendant(s) are month-to-month tenant(s).
9. Defendant(s) has broken the rental agreement because:
  - Unpaid rent \$4,200 with \$2,100 for November 2006, and \$2,100 for December 2006 plus Damages
  - Other: \_\_\_\_\_
10. Written notice was given to Defendant(s) on November 24, 2006 to correct this situation. An accurate copy of the written notice is attached as Exhibit 2.
11. Despite the notice, Defendant(s) has failed to correct this situation and still is in possession of the property.

(continued on reverse side)

COMPASP.2X (Amended 4/18/97)v

**SEE REVERSE SIDE**

I certify that this is a full, true, and correct copy of the original on file in this office.

*OCT -7 2009*

Clerk, District Court of the above Circuit, State of Hawai'i

COMPLAINT (continued)

9. As of December 07, 2006, Defendant(s) owed

Plaintiff(s) \$ \$4,200 with \$2,100 for November 2006, and \$2,100 for December 2006 plus Damages for:

Rent itemized as follows: \$4,200 with \$2,100 for November 2006, and \$2,100 for December 2006

Other: Delinquent Penalties, Damages, and Interest

Plaintiff(s) is asking the Court for the following:

A. A judgment giving Plaintiff(s) possession of the property.

B. A Writ of Possession directing the Sheriff or Police Officer to:

1. Remove Defendant(s) from the property and all persons possessing the property through Defendant(s);
2. Remove from the property all personal belongings of Defendant(s) and of any other person; and
3. Put Plaintiff(s) in possession of the property.

C. Judgment against Defendant(s) for \$ 4,200 and Damages

In addition, the Court may award any rent and other charges owed under the rental agreement, additional damages, court costs, interest, and reasonable attorney's fees.

	Signature of Plaintiff(s)/Plaintiff(s)' Attorney:  
Date: December 22, 2006	Print/Type Name: David M. Furuto

DECLARATION

I have read this Complaint, know the contents and verify that the statements are true to my personal knowledge and belief. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF HAWAII THAT THE ABOVE IS TRUE AND CORRECT.

	Signature of Declarant:  
Date: December 22, 2006	Print/Type Name: David M. Furuto

In accordance with the **Americans with Disabilities Act** if you require an accommodation for your disability, please contact the District Court Administration Office at PHONE NO. 538-5121, FAX 538-5233, or TTY 539-4853 at least ten (10) working days in advance of your hearing or appointment date. For Civil related matters, please call 538-5151.

David M. Furuto,  
P. O. Box 84  
Laie, Hawaii 96762  
Telephone: 808-293-7788

November 24, 2006

Sosipeta Hikila  
55-550 Moana Street  
Laie, Hawaii 96762

Dear Sosipeta Hikila:

Since you have not paid your monthly rent of \$2,100 for November 2006 for 55-550 Moana Street, even though it was due on November 01, 2006 and since you have ignored our request to pay, then if your monthly rent of \$2,100 for November 2006 is not made within five business days after the date of this notice or by November 30, 2006, then we can then sue you; (a) to gain possession of the Unit at once; and (b) to collect the rent due. If we employ an attorney or someone else to collect unpaid debts of the tenant related to the rental unit, you must pay: (a) reasonable attorney's fees of not more than the unpaid rent; (b) the reasonable costs to collect; plus (c) court costs and interest that we may be entitled to. If you do not obey other terms of this Agreement, we may also employ an attorney to enforce them and you must also pay for: (1) reasonable costs and attorney fees; plus (2) any court costs and interest on funds owed that we may be entitled to.

If you have any questions, then please contact us immediately.

Sincerely,



David M. Furuto,

**SUMMONS****IN THE DISTRICT COURT OF THE FIRST CIRCUIT  
KO'OLAULOA DIVISION  
STATE OF HAWAII**

Plaintiff(s)

David M. Furuto

Reserved for Court Use

Civil No.

Defendant(s)

Sosipeta (Siosipeta) Hikila

Filing Party/Attorney Name, Attorney Number (if applicable),  
Address, Telephone and Fax Numbers

David M. Furuto,  
P. O. Box 84  
Laie, Hawaii 96762  
Telephone: 808-293-7788  
Telephone: 808-293-3814

**SUMMONS****THE STATE OF HAWAII:**

**TO:** The Director of Public Safety of the State of Hawai'i, his/her deputy or any police officer or other person authorized by the laws of the State of Hawai'i:

You are commanded to summon the Defendant(s) to appear before the District Judge of this Court in his/her Courtroom, to appear at the Court designated by the checked box on the reverse side.

This Summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the public, unless a Judge of the above-entitled Court permits, in writing on this Summons, personal delivery during those hours.

**TO THE DEFENDANT(S):**

You are required to appear before the District Judge of this Court, in his/her Courtroom, on the day and at the time designated by the checked box on page 2. If the Defendant(s) is a corporation, Hawai'i law requires it to be represented by an attorney licensed to practice in the State of Hawai'i.

**IF YOU OR YOUR ATTORNEY FAIL TO ATTEND THE COURT HEARING AT THE TIME AND PLACE DESIGNATED, DEFAULT AND DEFAULT JUDGMENT WILL BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.**

**NOTICE TO ALL PARTIES** (Honolulu Division only): If this case involves a residential lease and if the Defendant(s) disagrees with the statements in the Complaint, the Court may require the parties to submit their dispute to mediation at the Pre-Trial conference that will be scheduled on the Monday, not a holiday, following the court date specified above. If the Monday following your court date is a holiday, the Pre-Trial conference will occur on the next business day. If the parties are not able to resolve the dispute within 20 minutes of mediation, the Court will set a trial date.

DEC 22 2006  
Date:

Clerk of the above-entitled Court



CONTINUED TO PAGE 2

COURT ADDRESSES AND RETURNABLE DAYS:

**Honolulu Division, 1111 Alakea Street, 10th floor Courtroom 10A or 10B, Honolulu, Hawai'i**

at 8:30 a.m. on \_\_\_\_\_, \_\_\_\_\_, 200\_\_\_\_ for summary possession.  
or  
 at 8:30 a.m. on the fifth day following date of service, excluding Saturdays, Sundays and legal holidays for summary possession.  
or  
 at 1:30 p.m. on the second Monday following date of service, and should that Monday be a legal holiday then upon the next business day.

**'Ewa Division, 870 Fourth Street, Pearl City, Hawai'i**

at 8:30 a.m. on Friday, \_\_\_\_\_, 200\_\_\_\_ for summary possession.  
or  
 at 8:30 a.m. on the second Friday following date of service, and should that Friday be a legal holiday then upon the next Friday.

**Ko'olaupoko OR Ko'olauloa Division, 45-939 Po'okela Street, Kane'ohe, Hawai'i**

at 8:30 a.m. on Wednesday, Jan. 10, 2007 for summary possession.  
or  
 at 8:30 a.m. on the second Wednesday following date of service, and should that Wednesday be a legal holiday then upon the next Wednesday.

**Wahiawa OR Waialua Division, 1034 Kilani Avenue, Wahiawa, Hawai'i**

at 9:00 a.m. Wednesday, \_\_\_\_\_, 200\_\_\_\_ for summary possession.  
or  
 at 9:00 a.m. on the second Wednesday following date of service, and should that Wednesday be a legal holiday then upon the next Wednesday.

**Wai'anae Division, 87-1784 Farrington Highway, Nanakuli, Hawai'i**

at 9:00 a.m. Tuesday, \_\_\_\_\_, 200\_\_\_\_ for summary possession.  
or  
 at 9:00 a.m. on the second Tuesday following date of service, and should that Tuesday be a legal holiday then upon the next Tuesday.

**Mailing address for the Courts: 1111 Alakea Street, Civil Division, Third (3rd) floor, Honolulu, Hawai'i 96813**

In accordance with state and federal disability laws, if you require an accommodation for a disability, when working with a court program, service, or activity, please contact the District Court Administration Office at PHONE NO. 538-5121, FAX 538-5233, or TTY 539-4853 at least ten (10) working days before your proceeding, hearing, or appointment date.

**For Civil related matters, please call 538-5151 or visit the District Court Service Center at 1111 Alakea Street, Third (3rd) Floor.**

## JUDGMENT

IN THE DISTRICT COURT OF THE FIRST CIRCUIT  
 , KO'OLAU LOA DIVISION  
 STATE OF HAWAII

Plaintiff(s)

David M. Furuto

FILED

DISTRICT COURT OF  
 THE FIRST CIRCUIT

2001 MAY - 1 A 11:52

Reserved for Court Use *AB*

Civil No.

IRC06-1-7025

Defendant(s)

Sosipeta(Siosipeta) Hikila

Filing Party/Attorney Name, Attorney Number (if applicable),  
 Address, Telephone and Fax Numbers

David. M. Furuto

P. O. Box 84

Laie, Hawaii 96762

Telephone: 808-243-7788  
 808-243-3814

JUDGMENT is entered in favor of  Plaintiff David M. Furuto or  
 Defendant \_\_\_\_\_, based on the following (check one):

Confession  Trial  Stipulation

Default: The Defendant having failed to plead or otherwise defend and a default having been entered upon proof that Defendant is indebted to Plaintiff.

Other (Specify): \_\_\_\_\_

DISMISSED AS TO (LIST DEFENDANTS): \_\_\_\_\_

## JUDGMENT

Principal Amount.....  
 Interest.....  
 Attorney's Fees.....  
 Filing Fees.....  
 Service Fees.....  
 Mileage for Service.....  
 Other Costs.....

\$ 73,635.31

\$ \_\_\_\_\_

\$ \_\_\_\_\_

\$ 130.00

\$ 25.00

\$ 26.00

\$ \_\_\_\_\_

TOTAL JUDGMENT AMOUNT.....

\$ 73,816.31

 Clerk Judge *Hagan**M B D*

I certify that this is a full, true and correct  
 copy of the original on file in this office.

*A* OCT - 7 2009

Clerk, District Court of the above Circuit, State of Hawaii

In accordance with State and Federal disability laws, if you require an accommodation for a disability when working with a court program, service, or activity, please contact the District Court Administration Office at PHONE NO. 538-5121, FAX 538-5233, or TTY 539-4853 at least ten (10) working days before your proceeding, hearing, or appointment date.

For all Civil related matters, please call 538-5151 or visit the District Court Service Center at 1111 Alakea Street, Third (3rd) Floor.